

¹The Court notes that movant filed this action as a "Rule 60(B)-Motion Challenging Wrongful Use of Case to Warrant Enhancement of Armed Career Criminal and Requiring New Sentence." Because movant alleges that his constitutional rights were violated during his criminal sentencing, the Court has construed the instant motion as having been brought pursuant to 28 U.S.C. § 2255.

See Banks v. United States, No. 1:06-CV-99-RWS (E.D. Mo.). Banks did not appeal from this judgment. On January 11, 2010, movant filed another § 2255 action, which this Court transferred, as successive, to the United States Court of Appeals for the Eighth Circuit. See Banks v. United States, 1:10-CV-14-RWS (E.D. Mo.). On June 16, 2010, the Eighth Circuit denied Banks’ petition for authorization to file a successive habeas application. See Banks v. United States, No. 10-1446 (8th Cir. 2010). On September 22, 2010, Banks filed another § 2255 motion, which was summarily dismissed as successive. Banks v. United States, No. 1:10-CV-145 RWS (E.D. Mo.). On December 2, 2010, Banks filed another successive § 2255 motion, which was also summarily dismissed. Banks v. United States, No. 1:10-CV-199 RWS (E.D. Mo.). On May 2, 2011, Banks filed yet another successive § 2255 motion, which was summarily dismissed. Banks v. United States, No. 1:11-CV-74 RWS (E.D. Mo.). The instant action is Mr. Banks’ fifth successive § 2255 action, and it, too, will be summarily dismissed, because movant did not obtain permission from the Eighth Circuit Court of Appeals to bring a successive § 2255 motion in this Court.²

²As amended by the Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”), 28 U.S.C. § 2255 now provides that a “second or successive motion must be certified . . . by a panel of the appropriate court of appeals” to contain certain information. Title 28 U.S.C. § 2244(b)(3)(A) provides that “[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the

Accordingly,

IT IS HEREBY ORDERED that the instant motion to vacate is **DENIED**, without prejudice, because movant did not obtain permission from the Eighth Circuit Court of Appeals to bring the motion in this Court. See 28 U.S.C. § 2255.

A separate Order of Dismissal shall accompany this Memorandum and Order.

Dated this 8th day of August, 2011.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

district court to consider the application.”